United Nations CRPD/C/THA/CO/1

Convention on the Rights of Persons with Disabilities

Distr.: General
12 May 2016

Original: English

Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Thailand*

I. Introduction

1. The Committee considered the initial report of Thailand (CRPD/C/THA/1) at its 36th and 237th meetings (see CRPD/C/THA/SR.236 and 237), held on 30 and 31 March 2016 It adopted the present concluding observations at its 252nd meeting, held on 11 April 2016.

2. The Committee welcomes the initial report of Thailand, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/THA/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/THA/Q/1).

3. The Committee expresses its appreciation for the constructive dialogue held between the delegation of the State party and the Committee. The Committee also welcomes the independent participation of the National Human Rights Commission of Thailand.

II. Positive aspects

4. The Committee acknowledges various efforts by the State party to promote the rights of persons with disabilities, including the ratification of the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2013) and the adoption of the:

(a) Regulation on the promotion and protection of the rights to recognition, equal access to and use of broadcasting programmes (2016);

(b) Persons with Disabilities Empowerment Act (2007) and its amendment (2013);

(c) Fourth National Plan of Empowerment of Persons with Disabilities (2012-2016);

* Adopted by the Committee at its fifteenth session (29 March-21 April 2016).

GE.16-07734(E)
1607734

Please recycle

(d) Five-Year Plan on the Development of Education for Persons with Disabilities (2012-2016);

(e) First Strategic Plan for the Empowerment of Women with Disabilities (2013-2016);

(f) Legislation withdrawing the interpretative declarations to article 18 of the Convention in February 2015.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1-4)

5. The Committee is concerned that the State party has not ratified the Optional Protocol to the Convention.

6. **The Committee encourages the State party to ratify the Optional Protocol to the Convention.**

7. The Committee is concerned about the fact that the new draft Constitution of Thailand *ad referendum* appears to weaken the overall legal protection of persons with disabilities when compared to the 2007 Constitution and omits specific references to persons with disabilities.

8. **The Committee recommends that the State party strengthen the legal protection of persons with disabilities in its new draft Constitution.**

9. The Committee is concerned that national laws are not fully harmonized with the Convention, particularly with respect to the concept of disability in section 4 of the Persons with Disabilities Empowerment Act and the criteria for access to services and funds that rely heavily on a medical assessment.

10. **The Committee recommends that the State party take the steps necessary to revise national legislation and policies in accordance with the human rights model of disability, in close consultation with representative organizations of persons with disabilities.**

11. The Committee is concerned with the overall limited empowerment of representative organizations of persons with disabilities by the State party, and the obstacles encountered by civil society organizations in obtaining certification and grants for setting up disability service centres as provided for in legislation.

12. **The Committee recommends that the State party adopt the measures necessary to ensure the active participation of representative organizations of persons with disabilities and facilitate their empowerment as service providers.**

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

13. The Committee is concerned that national laws, including the Persons with Disabilities Empowerment Act and the Gender Equality Act permit discrimination in specific cases; that denial of reasonable accommodation is not considered discrimination; and that the Sub-Committee on Elimination of Discrimination against Persons with Disabilities does not have the authority and resources necessary to appropriately address complaints of discrimination on grounds of disability by persons seeking remedies.

14. **The Committee recommends that the State party amend legislation to prohibit discrimination against persons with disabilities without exceptions, and to include a definition of reasonable accommodation, in conformity with the Convention; and take all the measures necessary, including upgrading the Sub-Committee on Elimination of Discrimination against Persons with Disabilities to a Committee, to ensure that it can effectively and independently address cases of discrimination on the grounds of disability, including intersectional and multiple discrimination.**

Women with disabilities (art. 6)

15. The Committee is concerned at the lack of legislation, policies or programmes designed to protect women and girls with disabilities from multiple and intersectional discrimination and violence; at the limited opportunities for women with disabilities to be systematically involved in decisions that concern them directly; and that there is no strategy to ensure the full development, advancement and empowerment of women and girls with disabilities.

16. **The Committee recommends that the State party:**

(a) **Adopt a strategy for guaranteeing full protection against discrimination, and enjoyment of the rights of women and girls with disabilities, particularly those living in rural areas and belonging to ethnic minorities;**

(b) **Ensure that women and girls with disabilities can participate effectively in decision-making processes at all levels on matters that concern them directly, including in the Thai Women's Assembly;**

(c) **Mainstream a perspective on women and girls with disabilities in its gender equality law, strategy, policies and programmes;**

(d) **In consultation with representative organizations of women with disabilities, implement a strategy to promote the full development, advancement and empowerment of women and girls with disabilities.**

Children with disabilities (art. 7)

17. The Committee is concerned about discrimination and stigma against children with disabilities, which results in reluctance by some parents of children with disabilities to register with the Department of Empowerment of Persons with Disabilities; the abandonment of children with disabilities by their families; and the number of children with disabilities living in institutions. The Committee is also concerned that children, their families and professionals working for and with children are unaware of their rights; entities working on their protection and promotion lack coordination; professionals in the field lack training; and reliable statistics and information on the situation of children with disabilities are lacking overall.

18. **The Committee recommends that the State party, in close consultation with representative organizations of children with disabilities:**

(a) **Adopt a strategy to combat stereotypes against children with disabilities and prevent their abandonment;**

(b) **Develop community-based services and assistance with a view to ending institutionalization;**

(c) **Raise awareness of the rights of children with disabilities and strengthen the provision of assistance appropriate to their age and impairment.**

Awareness-raising (art. 8)

19. The Committee is concerned about persisting negative attitudes, stereotypes and prejudices against persons with disabilities, including persons with psychosocial impairments, in society. It is also concerned about the State party's understanding of primary prevention of impairment as an implementation measure of the Convention.

20. **The Committee recommends that the State party bolster specific awareness-raising campaigns, including a mass-media strategy, with different target audience groups based on the human rights-based model of disability aimed at eliminating in society negative stereotypes and prejudices towards persons with disabilities, particularly persons with psychosocial impairments. It also recommends that primary prevention programmes relating to impairment and their respective budgets be removed from action plans and policies aimed at implementing the Convention. The Committee further encourages the State party, in collaboration with organizations of persons with disabilities, to develop and carry out training initiatives aimed at all public sector officials as well as the general public, for understanding and implementing the human rights model of disability.**

Accessibility (art. 9)

21. The Committee is concerned about the lack of implementation of legislation on accessibility, especially in remote and rural areas. It is also concerned about the lack of coherent standards on accessibility, effective enforceability and sanctions for non-compliance.

22. **The Committee recommends that the State party ensure the effective cooperation of cross-cutting ministries and the adoption of a comprehensive accessibility plan covering all facets in line with general comment No. 2 (2014) on accessibility, with sufficient resource allocation, enforceable and effective sanctions for non-compliance and a defined time frame for its implementation, by setting up a national database for its monitoring. The Committee recommends that the State party pay attention to the links between article 9 of the Convention and targets 11.2 and 11.7 of the Sustainable Development Goals , in order to provide access to safe, affordable, accessible and sustainable transport systems for all, notably by expanding public transport, with special attention to the needs of persons with disabilities and to provide universal access to safe, inclusive, accessible, green public spaces, particularly for persons with disabilities.**

Situations of risk and humanitarian emergencies (art. 11)

23. The Committee is concerned about the lack of specific plans of prevention, protection and assistance for persons with disabilities in situations of risk and humanitarian emergencies, prepared in accordance with the Sendai Framework for Disaster Risk Reduction.

24. **The Committee recommends that the State party adopt a disaster risk reduction and management plan that ensures accessibility and the inclusion of all persons with disabilities, and that provides for a single point of contact in situations of emergency and disasters in accordance with the Sendai Framework for Disaster Risk Reduction.**

Equal recognition before the law (art. 12)

25. The Committee is deeply concerned about substituted decision-making and guardianship regimes for persons with disabilities.

26. **In the light of its general comment No. 1 (2014) on equal recognition before the law, the Committee urges the State party to repeal the regimes of substituted decision-making enshrined in, among others, sections 28 and 1670 of the Civil Code, and replace them with supported decision-making regimes that uphold the autonomy, will and preferences of persons with disabilities.**

Access to justice (art. 13)

27. The Committee is concerned at the lack of accessibility to the justice system, including physical access, legal aid, sign language interpreters in the courtroom, and procedural accommodation, particularly in rural areas. The Committee is also concerned that section 95 of the Civil Procedure Code can limit persons with disabilities from having their testimony accepted on an equal basis with others.

28. **The Committee recommends that the State party implement physical, informational and communicational accessibility, including through the provision of professional sign language interpreters, the use of Braille and other procedural accommodation; ensure the training of court personnel, judges, police officers and prison staff so as to uphold the rights of persons with disabilities, including the right to a fair trial, and amend the Civil Procedure Code to ensure the right to testify on an equal basis with others.**

Liberty and security of the person (art. 14)

29. The Committee is concerned that national laws provide for involuntary detention on the basis of impairment. It is also concerned about the lack of information on the safeguards and guarantees in place in the criminal justice system for persons with disabilities who are declared unfit to stand trial, the detention of persons based on that declaration and the application of security measures, often for an indefinite period of time.

30. **The Committee recommends that the State party repeal all legislation that authorizes institutionalization on the basis of impairment without the free and informed consent of the person, including cases where consent is substituted by a third party. It also recommends that the declaration of unfitness to stand trial be removed from the criminal justice system and that the State party review the procedures used to penalize persons with disabilities when they commit criminal offences in order to ensure due process guarantees for persons with disabilities on an equal basis with others, for example, the presumption of innocence and the rights to defence and to a fair trial.**

Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)

31. The Committee is concerned about reports of inhuman or degrading involuntary treatment of persons with disabilities, including the use of electroshock therapy, restraints, isolation and seclusion, on the basis of the perceived dangerousness to themselves or others on impairment.

32. **The Committee recommends that the State party take effective and appropriate measures, including those of a legislative nature, to prevent inhuman or degrading medical treatment on the basis of actual or perceived impairment.**

Freedom from exploitation, violence and abuse (art. 16)

33. The Committee is concerned about the situation of persons with disabilities living in poverty, who are often at risk of exploitation and abuse, including begging and human trafficking for labour and sexual exploitation. It is also concerned about violence against

and abuse of persons with disabilities, particularly girls and women with disabilities, and regrets the absence of a disability perspective in policies for protection from violence, abuse and exploitation.

34. **The Committee recommends that the State party develop a strategy for the protection of persons with disabilities, especially women and girls, from violence, abuse and exploitation, inside and outside the home environment. It also recommends that the State party take the measures necessary to prevent persons with disabilities from exploitation through begging and human trafficking and to strengthen the general perception of the importance of human dignity. It further recommends that the State party guarantee that all persons with disabilities, particularly women and girls, have access to justice when they have been subjected to violence, abuse or exploitation.**

Protecting the integrity of the person (art. 17)

35. The Committee is concerned that persons with disabilities, including women, girls and boys with disabilities, continue to be subjected to involuntary medical treatment, including forced sterilization and abortion.

36. **The Committee recommends that the State party take efficient measures to protect persons with disabilities, including women, girls and boys, from forced interventions, especially sterilization and abortion, and ensure that the individual's right to free, prior and informed consent to treatment is upheld and supported decision-making mechanisms are provided.**

Liberty of movement and nationality (art. 18)

37. The Committee is concerned that the rules governing section 19 of the Persons with Disabilities Empowerment Act limit the application for disability identity cards to persons with disabilities who hold Thai citizenship only. It is concerned that this excludes non-Thai persons with disabilities and those who are not registered in the civil registry from benefiting from services and entitlements. It is also concerned about the fact that many children and adults with disabilities are not registered due to the widespread stigma of being identified as a person with disability.

38. **The Committee recommends that the rules governing section 19 of the Persons with Disabilities Empowerment Act be amended to ensure that all persons with disabilities, regardless of nationality, including persons from different ethnic and indigenous backgrounds, migrants, refugees and asylum seekers, can benefit from available services and entitlements. It also recommends that concrete steps be taken to provide information and conduct awareness-raising on registration to gain access to services.**

Living independently and being included in the community (art. 19)

39. The Committee is concerned about the institutionalization of persons with disabilities, including girls and boys, in residential institutions, hospitals, half-way homes and rehabilitation centres, and the insufficiency of community-based support services to implement independent living. The Committee is also concerned that many initiatives for facilitating the enjoyment of the right to independent living remain isolated examples and face challenges in terms of sustainability.

40. **The Committee recommends that the State party, in active dialogue with organizations of persons with disabilities:**

(a) **Adopt a concrete time frame for the deinstitutionalization of persons with disabilities;**

(b) **Make available a range of supports in the community to ensure that persons with disabilities can exercise choice and control regarding where and with whom they live;**

(c) **Continue and strengthen initiatives for independent living to ensure long-term sustainability.**

Freedom of expression and opinion, and access to information (art. 21)

41. The Committee is concerned at the lack of availability of public information and mass media for persons with disabilities in accessible and usable formats, that Thai Sign Language is only recognized in a government resolution of 17 August 1999 signed by the Permanent Secretary for Education on behalf of the Government, and that provision of sign language interpreters in public offices is very limited, especially in rural and remote areas.

42. **The Committee recommends that the State party develop and use accessible communication formats, such as Braille, tactile formats, sign language, easy-read and others, for mass media and public information ensure the accessibility of government websites, and take with concrete and effective measures to control and monitor accessibility and apply sanctions for non-compliance. It also recommends that the State party officially recognize Thai Sign Language in legislation to ensure its full and effective application in the State party and increase training and certification initiatives to ensure the availability of professional Thai Sign Language interpreters.**

Respect for home and the family (art. 23)

43. The Committee is concerned that family law (Commercial and Civil Code, book V) prevents some persons with disabilities from marrying and founding a family. It is also concerned that parents of children with disabilities encounter obstacles to gaining access to specific support for exercising their parental responsibilities and preventing abandonment.

44. **The Committee recommends that the State party repeal section 1449 and related provisions of the family law that discriminate against certain persons with disabilities with respect to their right to marry and found a family, and that it increase the availability of early and comprehensive information, services and support to children with disabilities and their families.**

Education (art. 24)

45. The Committee is concerned that the right to inclusive education remains unfulfilled for many persons with disabilities; that some schools refuse to admit students with disabilities; and that staff and educational establishments, particularly in rural and remote areas, have limited capacity, skills and resources.

46. **The Committee calls upon the State party to adopt all legal and other measures necessary to ensure the provision, as a legally enforceable right, of inclusive quality education to persons with disabilities, especially children with disabilities, in mainstream schools within their communities. The Committee also recommends that the State party allocate adequate resources, provide reasonable accommodation and individualized support measures to students with disabilities and ensure the mandatory pre-and in-service training of teachers and other education personnel on inclusive education. The Committee recommends that the State party pay attention to the links between article 24 of the Convention and targets 4.5 and 4 (a) of the Sustainable Development Goals, to ensure equal access to all levels of education and**

vocational training, and build and upgrade education facilities that are disability-sensitive and safe.

Health (art. 25)

47. The Committee is concerned that mainstream health services and information on public health education are not accessible to persons with disabilities, particularly in rural areas. It is also concerned about the insufficiency of training for all health professionals on the rights of persons with disabilities.

48. **The Committee recommends that the State party strengthen its efforts to ensure that all health services for the general public are fully accessible and incorporate a gender perspective, especially in rural areas. The Committee also recommends that the State party take measures to provide mandatory training to all health professionals on the rights of persons with disabilities, including the right of all persons with disabilities to give their free and informed consent.**

49. The Committee is concerned that private health insurance companies discriminate against persons with disabilities by refusing to sell them health insurance policies because of their disability.

50. **The Committee recommends that the State party prohibit discrimination on the basis of disability by private health insurance companies.**

Habilitation and rehabilitation (art. 26)

51. The Committee is concerned about the insufficiency of habilitation and rehabilitation services and technology, particularly in rural areas, and that access to these remains for the most part dependent on a medical assessment.

52. **The Committee recommends that the State party increase the human, technical and financial resources to organize, strengthen and extend comprehensive habilitation and rehabilitation services and technology, on the basis of the multidisciplinary assessment of individual needs and strengths.**

Work and employment (art. 27)

53. The Committee is concerned at the low employment rate among persons with disabilities, particularly among women. It is also concerned about the prejudice against persons with disabilities, their lack of opportunities for training to gain access to employment, and employers' preference to pay a levy to the National Fund for the Empowerment of Persons with Disabilities rather than recruit persons with disabilities. It is also concerned that only a limited amount of the Fund's loans are concretely allocated to supporting the empowerment of persons with disabilities and that its effectiveness is constrained by public regulations.

54. **The Committee recommends that the State party:**

(a) **Increase employment opportunities in the open labour market for persons with disabilities, particularly women, including through awareness-raising campaigns targeting employers and the public at large to eliminate prejudice against persons with disabilities;**

(b) **Implement training and skills development programmes to facilitate the recruitment of persons with disabilities and self-employment opportunities;**

(c) **Provide access to supported employment measures in the open labour market, ensure the transparent and accountable management of the National Fund**

for the Empowerment of Persons with Disabilities, and include persons with disabilities within its administration;

(d) **Pay attention to the links between article 27 of the Convention and Sustainable Development Goal 8, target 8.5, to ensure the achievement of full and productive employment and decent work for all including persons with disabilities and equal pay for work of equal value.**

Adequate standard of living and social protection (art. 28)

55. The Committee is concerned about persons with disabilities in situations of poverty, particularly those belonging to ethnic minority groups, in single parent-headed households and in families where parents care for a child with disabilities on a full-time basis. It is concerned about the low percentage of persons with disabilities entitled to receive a disability grant and the insufficiency of the grant to ensure an adequate standard of living.

56. **The Committee urges the State party to review its social security legislation with a view to ensuring equal access for all persons with disabilities to social protection. It also recommends that the minimum living support is given on the basis of the personal characteristics, circumstances and requirements of persons with disabilities. The Committee recommends that the State party pay attention to the links between article 28 of the Convention and target 10.2 of the Sustainable Development Goals, to empower and promote economic inclusion of all, irrespective of disability status.**

57. The Committee is concerned about the loss of universal health-care services for persons with disabilities once they are employed and subject to the Social Insurance Act.

58. **The Committee recommends that the State party make health-care services universal to all persons with disabilities, regardless of their employment status, in order to support disability-related expenses and enable them to achieve an adequate standard of living.**

Participation in political and public life (art. 29)

59. The Committee is concerned about restrictions on the right of persons with disabilities to vote and stand for election and the lack of measures to ensure the secrecy of their vote. It is also concerned about the lack of information on accessible formats of voting procedures.

60. **The Committee recommends that the State party revise all laws that limit the participation of persons with disabilities in political and public life in order to enable all persons with disabilities to vote and to stand for election, including by restoring legal capacity as required, and to ensure that all stages of an election are made fully accessible, including the political campaigns and their materials and the act of voting, including with respect to the secrecy of voting.**

Participation in cultural life, recreation, leisure and sport (art. 30)

61. The Committee is concerned that the State party has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

62. **The Committee encourages the State party to adopt all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31-33)

Statistics and data collection (art. 31)

63. The Committee is concerned that the State party is not collecting data necessary to enable it to implement the Convention.

64. **The Committee recommends that the State party review its data collection and analysis and bring them into line with the Convention. It also recommends that the State party pay attention to the links between article 31 of the Convention and target 17.18 of the Sustainable Development Goals, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.**

International cooperation (art. 32)

65. The Committee is concerned by the lack of information on disability-specific measures envisaged to implement Agenda 2030 for Sustainable Development and the goals of the Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific. It is also concerned that much of the State party's South-South cooperation regarding persons with disabilities is oriented around health, in detriment of a holistic approach to disability.

66. **The Committee recommends that the State party integrate a disability rights-based perspective in all international cooperation and development efforts, in close consultation with representative organizations of persons with disabilities.**

National implementation and monitoring (art. 33)

67. The Committee is concerned that the Department for the Empowerment of Persons with Disabilities lacks sufficient capacity and resources to fulfil its mandate. It is also concerned about the criteria for the appointment of "disability experts", as well as the lack of a clear role for representative organizations of persons with disabilities. The Committee is further concerned that the status of the National Human Rights Commission of Thailand was downgraded to "B".

68. **The Committee recommends that the State party ensure that the Department for the Empowerment of Persons with Disabilities closely consults with organizations representing persons with disabilities nationwide to standardize the selection of "disability experts", to ensure the quality of the experts and an adequate representation of the interests of persons with disabilities, especially women and girls with disabilities. The Committee also recommends that the State party develop a national action plan that incorporates a formal system of monitoring to ensure the implementation of the Persons with Disabilities Empowerment Act and other laws and policies relating to persons with disabilities. The State party is further encouraged to ensure the participation of persons with disabilities and their representative organizations in the monitoring of the implementation of the Convention. It calls on the State party to ensure that the National Human Rights Commission of Thailand fulfils the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Technical cooperation

69. **The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group on**

the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations.

IV. Follow-up

Dissemination of information

70. **The Committee requests that the State party provide information, within 12 months of the adoption of the present concluding observations and in accordance with article 35 (2) of the Convention, on the measures taken to implement the Committee's recommendations contained in paragraphs 54 (c) (work and employment) and 68 (national implementation and monitoring).**

71. **The Committee requests the State party to implement the recommendations of the Committee contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities and the media, using modern social communication strategies.**

72. **The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.**

73. **The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.**

Next periodic report

74. **The Committee requests the State party to submit its combined second, third and fourth periodic reports by 29 August 2022, and to include in them information on the recommendations made in the present concluding observations. The Committee also requests the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.**